S.B.CRIMINAL REVISION PETITION NO.38/2007
(Shiv Singh Vs. State & Ors.)

Date of order : 3.9.2007

HON'BLE MR. JUSTICE GOPAL KRISHAN VYAS

Mr. R.K. Charan, for the petitioner.
Mr. Vishnu Kachwaha, Public Prosecutor.
Mr. Manoj Rathore, for respondents.

Heard learned counsel for the parties.

By way of filing the present revision petition, the petitioner has challenged the judgment dated 20.9.2006 passed by Addl. Chief Judicial Magistrate, Shahpura, District Bhilwara whereby the trial Court has decided the case and acquitted the non-petitioners for offence under Section 447 and 323 I.P.C.

It is contended by learned counsel for the complaint-petitioner that in fact the case was listed in the Court on 14.7.006 and on that day statement of PW-1 Shiv Singh and PW-2 Bhagwat Singh were recorded and it was observed in the order-sheet that remaining prosecution witnesses will be examined on 17.10.2006. The petitioner noted the next date of hearing as 17.10.2006. Thereafter, in the last week of September, 2006, it has come to the notice of the petitioner that non-petitioners have been acquitted from the charges in the said criminal case in which

next date of hearing was given as 17.10.2006. Upon enquiry it was found that the matter was already decided by learned trial Court on 20.9.2006 itself. Thereafter, the petitioner obtained the certified copy of the order and challenged the same before this Court by way of filing present revision petition.

It is contended by the learned counsel for the petitioner that upon enquiry it is revealed that earlier in the order-sheet dated 14.7.2006, next date was fixed as 17.10.2006 for recording the statement of prosecution witnesses but thereafter, some interpolation was made in the order-sheet dated 14.7.2006 and it was written in the order-sheet that the statement of PW-1 Shiv Singh and PW-2 Bhagwat Singh are recorded and other witnesses are not present, therefore, the opportunity of recording statement of prosecution witness is closed and the case was ordered to be fixed for recording the statement of accused under Section 313 Cr.P.C. on 22.7.2006, and at last case was finally decided on 20.9.2006. The trial Court without any reason closed the evidence of prosecution and proceeded to decide the matter.

I have perused the order-sheet dated 14.7.2006, which supports the contention made by the learned counsel for the petitioner. I have also perused the order-sheet dated 22.7.2006 and last

order-sheet dated 20.9.2006.

From the record of the case, it is clear that on 14.7.2006, the case was ordered to be fixed on 17.10.2006 but later on some interpolation was made in the order-sheet and something was added. Further, there is a seal of the Court in between the lines of order-sheet dated 14.7.2006. Meaning thereby, remaining part of the order-sheet was written by the Court after putting seal upon the order-sheet. It is a very serious matter.

Upon perusal of the aforesaid order-sheets of different dates, I see no reason why this interpolation was made and in whose behalf it was made. Therefore, while quashing the impugned judgment dated 20.9.2006, the case is remitted to the trial Court with a direction to proceed in the matter from the stage, which was in existence on 14.7.2006 in accordance with the law.

Accordingly, the revision petition is allowed.

A copy of this order be forwarded to Registrar General, Rajasthan High Court.

The Registrar General is directed to make enquiry for taking action in accordance with law with

regard to interpolation made in the order-sheet dated 14.7.2006.

(GOPAL KRISHAN VYAS), J .

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